

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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**IN RE PHARMACEUTICAL  
INDUSTRY AVERAGE  
WHOLESALE PRICE  
LITIGATION**

**THIS DOCUMENT RELATES TO:**

STATE OF NEVADA V. ABBOTT  
LABORATORIES, INC., ET AL., CA  
NO. CV-02-00260-ECR (Nevada I)

STATE OF NEVADA V. AMERICAN  
HOME PRODUCTS, ET AL., CA NO.  
02-CV-12086-PBS (Nevada II)

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MDL NO. 1456  
Civil Action No. 01-12257-PBS  
Judge Patti B. Saris

Chief Magistrate Judge Marianne B. Bowler

**ORAL ARGUMENT REQUESTED**

**DEFENDANTS' JOINT MOTION FOR REDRESS FOR SPOILIATION OF EVIDENCE**

Pursuant to Case Management Order No. 2 ("CMO No. 2"), FED. R. CIV. P. 37, and the Court's inherent management powers, the Nevada II Defendants ("Defendants") respectfully request that this Court redress the spoliation of evidence by the Plaintiff State of Nevada by deeming the State to admit the facts set forth in Exhibit A, which is attached to the Defendants' joint memorandum of law. In support of this motion, Defendants rely on their joint memorandum of law and attached appendix submitted herewith.

WHEREFORE, Defendants respectfully request that:

A. Defendants' Joint Motion for Redress for Spoliation of Evidence be GRANTED in its entirety; and

B. The Court GRANT such other and further relief as the Court deems just and proper.

*Respectfully submitted,*

/s/ Ryan M. DiSantis

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*Attorneys for Schering-Plough Corp. &  
Warrick Pharmaceuticals Corp. on behalf  
of the Defendants in Nevada II*

Dated: July 21, 2006

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1**

I hereby certify that on July 19, 2006, counsel for Schering-Plough Corp. and Warrick Pharmaceuticals Corp. conferred with counsel for the Plaintiff State of Nevada in a good faith effort to resolve or narrow the issues raised by Defendants' Joint Motion for Redress for Spoliation of Evidence.

/s/ Ryan M. DiSantis

Ryan M. DiSantis

**CERTIFICATE OF SERVICE**

I, Ryan M. DiSantis, hereby certify that a true copy of the foregoing document was served upon all counsel of record in Nevada I and Nevada II electronically pursuant to Fed. R. Civ. P. 5(b)(2)(D) and CMO No. 2 on this 21st day of July, 2006, by causing a copy to be sent to LexisNexis File & Serve for posting and notification to all counsel of record.

/s/ Ryan M. DiSantis

Ryan M. DiSantis